



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,792	11/18/2005	David Martini	N2321-MJP	1655
23456 7590 07/21/2009 WADDEY & PATTERSON, P.C. 1600 DIVISION STREET, SUITE 500 NASHVILLE, TN 37203				
EXAMINER MC'CARRY JR, ROBERT J				
ART UNIT 3617		PAPER NUMBER		
NOTIFICATION DATE 07/21/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@IPLAWGROUP.COM

BFL@iplawgroup.com

Office Action Summary

Application No.

10/534,792

Applicant(s)

MARTINI ET AL.

Examiner

ROBERT J. MCCARRY JR

Art Unit

3617

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-34, 36-41 and 43-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-34, 36-41 and 43-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 25-32 are objected to because of the following informalities: The claim set of claims 25-32 contain two claims numbered 27. Applicant is asked to correctly renumber one of the claims numbered 27 and also correct any dependencies related to either of the two claims numbered 27. Appropriate correction is required.

For Examining purposes the Examiner has renumbered the claims in accordance with rule 1.126. The claim listing is attached with this office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25-29, 32-35, 37-42 and 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al (US 2,541,904) in view of Pfister (US 4,373,447).

Alexander et al discloses a power generating system for a railcar. The railcar is comprised of a car body 10. Connected to the car body is an air conditioning unit, which is further comprised of an evaporator 14 and fan 16, connected to a compressor 30 and condenser 34 and condenser fan 40. The air conditioning unit for the car is powered by a diesel engine 62 mounted on the car with the air conditioning unit. The diesel engine 62 turns an alternator 64 and generator 66 to generate electricity and convert the

electricity into a form to operate the air conditioner. The air conditioning unit is further comprised of a control circuit and thermostat which controls the operation of the air conditioning unit by opening and closing circuits and vents based on the temperature of the interior of the rail car.

Alexander et al discloses the power generating system and air conditioning unit as described above. However, Alexander et al does not specifically disclose the power generation components and air conditioning unit to be mounted to a frame below the car body. Pfister discloses a car body for a railcar comprised of an upper passenger cabin and a lower frame below the car body as shown in 7 and 8. The lower frame supports power generating equipment for the rail car. It would have been obvious to one of ordinary skill in the art to have used a rail car body, like that of Pfister, as a teaching to show that power generating components and air conditioning components, like that of Alexander et al can be mounted below the car with the expected result of shielding them in a closed space and preventing damage to the components as well as making them more accessible for maintenance.

Alexander et al discloses the power generating system and air conditioning unit as described above. However, Alexander et al only discloses a diesel engine and does not specify the use of a fuel powered turbine. It is well known in the art that turbine engines are used on train cars as a form of power generation. It would have been obvious to one of ordinary skill in the art to use a turbine can be used as a functional equivalent to a diesel engine, with the expected result of providing a cleaner burning more efficient engine.

Regarding claim 27 drawn to the turbine having a combustion chamber for fuel, and also regarding claim 39 drawn to a fuel pump, the Examiner has interpreted that it is well known to one of ordinary skill in the art that turbines, like many other types of engines, will be equipped with the standard operating equipment of a fuel pump, for moving fuel from a storage tank to a combustion chamber, with the expected result of properly operating the engine.

Regarding claim 33 drawn to the turbine having an air intake and an exhaust manifold, the Examiner has interpreted that it is well known to one of ordinary skill in the art that turbines, like many other types of engines, will be equipped with the standard operating equipment of an air intake and an exhaust manifold with the expected result of properly operating the engine.

Allowable Subject Matter

Claims 30 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 25-34, 36-41 and 43-45 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. MCCARRY JR whose telephone number is (571)272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Joseph Morano/
Supervisory Patent Examiner, Art Unit 3617

/R. J. McCarry Jr./
Examiner, Art Unit 3617

RJM
July 7, 2009